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Attorney for Plaintiffs

UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF ALASKA

Phyllis Aguchak, as
Guardian of Phyllis Rivers
and A.S and J.R,
minor children

Plaintiff,

vs.

UNITED STATES OF AMERICA,

Defendant.

Case no. A 15 - _____ Civil

COMPLAINT

COMES NOW Plaintiffs, and for their cause of action
against the United States of America, state as follows:

I. Jurisdiction

1. At all times relevant hereto, the Plaintiffs were
residents of Scammon Bay, Alaska, in the District of Alaska.
Phyllis Aguchak was appointed guardian on December 17, 2014.
Phyllis Aguchak is the mother of Phyllis Rivers. A.S. and J.R
are minor children of Phyllis Rivers.

2. This cause of action arises under the Federal Tort Claims Act 28 U.S.C. sec. 1346, 2401, and 2671 et seq.

3. At all times relevant hereto, the nurses, medical staff, Dr. Daniel Buffington, Dr. Jeremy Wood, Dr. Matthew Schnellbaecher, Dr. Joseph Park, Dr. Allanna Small, Dr. Jacob Gray, and Dr. Benjamin Westley, who treated the plaintiff Phyllis Rivers from December 16 to December 23, 2013 were employees or agents of the United States of America.

4. At all times relevant hereto, the Yukon Kuskowim Health Corporation, hereinafter referred to as (YKHC), and the Alaska Native Medical Center, hereinafter referred to as (ANMC) were agents of the United States of America.

5. Each of the employees and entities named above were acting within the scope of their employment and/or agency at the time of the events described herein.

6. On December 20, 2014, the claims set forth herein were presented to the United States Department of Health and Human Services, Public Health Services. Six months has passed and there has been no response to the administrative claim.

7. Based on paragraphs 1-6 above, this court has jurisdiction over the claims asserted herein.

II. Facts

9. Ms. Rivers was treated for endocarditis. She responded well to her antibiotic treatment. Her blood cultures were negative. The ultrasounds could not exclude vegetation due to her heart abnormality. The doctors discontinued antibiotic therapy on December 20, 2013. Ms. Rivers was monitored for three days and released with no appropriate follow up. On January 9, 2014, Ms. Rivers had a massive stroke. She is now partially paralyzed, has permanent brain damage, and requires twenty four hour a day care.

19 10. The children, A.S. and J.R., have loss of consortium
claims.

11. Plaintiffs incorporate the allegations set forth in
Paragraph 1-10.

12. The allegations of negligence against the agents
and/or employees of the YKHC and AMNC, include, but are not

1 limited to the following, failing to properly take blood
2 cultures, failing to properly diagnose Ms. River's condition,
3 failing to follow up with an echocardiogram within 7 to 10
4 days after her last test on December 20, 2014, and failing to
5 properly diagnose and treat her endocarditis, instead sending
6 her home on December 23, 2013 to a remote village in western
7 Alaska without appropriate follow up. The agents and
8 employees of YKHC and AMNC failed to exercise the degree of
9 care ordinarily exercised under the circumstances by health
10 care providers in their field or specialty.


12 13. The negligent and reckless care and conduct of
13 employees and/or agents of the YKHC and ANMC was a direct and
14 proximate cause of the plaintiffs' injuries.

15 WHEREFORE, plaintiffs' pray for relief as follows:

- 16 1. Past and future pain and suffering.
- 17 2. Past and future medical expenses.
- 18 3. Past and future lost earning capacity.
- 19 4. Any other relief courts deems just and proper.

20 DATED this 24th day of June, 2015, at Bethel, Alaska.

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LAW OFFICES OF DAVID HENDERSON
Attorney for the Plaintiff


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